

# MULTIPLE SPECIES CONSERVATION PROGRAM CONFORMANCE STATEMENT

For Simpson Farms

PDS2005-3100-5460

APN (s) 596-180-01, 596-180-02

November 3, 2015

## I. Introduction

The project is a Tentative Map to subdivide approximately 162 acres into 95 residential lots, two open space lots, seven private road lots, one commercial lot, and one detention basin lot. Access would be provided by private roads connecting to Jefferson Road and Olive Vista Drive. The site is subject to General Plan Regional Category "Semi-Rural", Land Use Designation Semi-Rural Residential (SR-1 and SR-2). Zoning for the site is A70 and C36; Limited Agriculture and General Commercial. The site is currently developed with an abandoned single family residence, barn, and stable, which are to remain. Potable water supply will be provided by the Otay Water District and the project would utilize on-site wastewater systems (septic) for sewage disposal. Earthwork would consist of balanced cut and fill of 180,000 cubic yards of material. The project site is located at the intersection of Jefferson Road and Olive Vista Drive within the Jamul-Dulzura Community Plan area.

Biological resources on the project site were evaluated in a Biological Technical Report prepared by Karl Osmundson, dated August 26, 2015. The site supports seven sensitive habitat types: Engelmann oak woodland, coast live oak woodland, baccharis scrub, Diegan coastal sage scrub, non-native grassland, southern coast live oak riparian forest, and southern willow scrub. Non-sensitive habitat types or land uses on the site include eucalyptus woodland, non-native vegetation, disturbed habitat, and developed land. Sensitive wildlife species identified on site were Cooper's hawk (*Accipiter cooperi*), turkey vulture (*Cathartes aura*), and western bluebird (*Sialia mexicana*), and the black-tailed jackrabbit (*Lepus californicus bennetti*), is presumed to occupy the site. Protocol surveys for Quino checkerspot butterfly, Hermes copper butterfly, burrowing owl, and California gnatcatcher were all negative; however, the project site supports potential Hermes copper habitat. Sensitive plant species identified onsite were Engelmann oak (*Quercus engelmannii*), San Diego sunflower (*Bahiopsis laciniata*), and southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*).

The site is located within the MSCP, but is not designated as a Pre-approved Mitigation Area (PAMA) and does not qualify as a Biological Resource Core Area (BRCA), as discussed in the Biological Technical Report section 1.5.3 and these findings. In addition, based on a GIS analysis, site photos, a site visit by County staff, and the Biological Resources Report, it was determined that the site is not part of a regional linkage/corridor as identified on MSCP maps nor is it in an area considered regionally important for wildlife dispersal.

The project would have a significant impact on 140.2 acres of raptor foraging habitat (90.1 acres of coastal sage scrub and 50.1 acres of non-native grassland). Clearing and grading during the California gnatcatcher breeding season could have potential impacts on nesting California gnatcatcher in the unlikely event that the site becomes occupied, and clearing and grading during the bird breeding season could impact migratory birds or raptors.

Based on the Biological Technical Report, the project will impact 90.1 acres of Diegan coastal sage scrub, 4.9 acres of baccharis scrub, 50.1 acres of non-native grassland, 0.1 acre of Engelmann oak woodland, 0.1 acre of coast live oak woodland, and 0.14 acre of southern coast live oak riparian forest (SCLORF). Impacts to wetlands/jurisdictional waters consist of 0.16 acre (3,702 linear feet) of non-wetland Waters of the U.S., 0.24 acre (3,702 linear feet) of CDFW jurisdictional streambed, and 0.14 acre of CDFW- and RPO-jurisdictional SCLORF.

Project impacts to raptor foraging habitat and potential breeding season impacts will be mitigated through implementation of the following mitigation measures: off-site preservation of 90.1 acres of coastal sage scrub or Tier II habitat, and 25.1 acres of non-native grassland habitat or Tier III habitat within an approved mitigation bank or BRCA in the South County MSCP and breeding season avoidance to prevent brushing, clearing, and/or grading between March 1 and August 15 for California gnatcatcher, between January 15 and July 15 for raptors, and between February 15 and August 31 for migratory birds. Because the project will impact potential Hermes copper butterfly habitat, the coastal sage scrub mitigation site should also support potential Hermes copper butterfly habitat.

As considered by the GPU EIR, project impacts to sensitive habitats will be mitigated through ordinance compliance and through implementation of the following mitigation measures: off-site preservation of 95 acres of coastal sage scrub or Tier II habitat, 25.1 acres of non-native grassland or Tier III habitat, 0.1 acre of Engelmann oak woodland or Tier I habitat, 0.1 acre of coast live oak woodland or Tier I habitat, 0.14 acre of acres of SCLORF/wetland creation and 0.28 acres of SCLORF/wetland restoration/enhancement, all located within an approved mitigation bank or BRCA in the MSCP. Impacts to CDFW jurisdictional streambed shall be mitigated at a 1:1 ratio through purchase of 0.24 acre of mitigation credits through consultation with the CDFW on a Streambed Alteration Agreement prior to Final Map recordation or issuance of grading permit. Mitigation for Project impacts to non-wetland WUS shall occur at a 1:1 ratio in consultation with USACE pursuant to issuance of a permit to place fill in WUS. The Project shall obtain a USACE permit under Section 404 of the Clean Water Act and Section 401 Water Quality Certification prior to Final Map recordation or issuance of a grading permit.

Table 1. Impacts to Habitat and Required Mitigation

Vegetation Community/ Habitat	Tier level	Existing	Total Impacts	Impact Neutral	MITIGATION	
					Ratio	Required Off-site
Southern willow scrub (63320)	I	0.02	--	0.02	3:1	--
Southern coast live oak riparian forest (61310)	I	0.17	0.14	0.10	3:1	0.42
Engelmann oak woodland (71180)	I	0.74	0.1	0.64	1:1	0.1
Coast live oak woodland (71160)	I	0.08	0.1	0.07	1:1	0.1
Baccharis scrub (32530)	II	4.95	4.9	0.05	1:1	4.9
Diegan coastal sage scrub (32500)	II	93.14	90.1	3.04	1:1	90.1
Non-native grassland (42200)	III	52.43	50.1	2.33	0.5:1	25.1
Eucalyptus woodland (79100)	IV	0.12	--	0.12	--	--
Non-native vegetation (11000)	IV	1.54	1.2	0.34	--	--
Disturbed habitat (11300)	IV	4.44	4.3	0.14	--	--
Developed (12000)	IV	4.37	1.9	2.47	--	--
<b>TOTAL</b>		<b>162.00</b>	<b>152.8</b>	<b>8.32</b>	<b>--</b>	<b>120.87</b>

The findings contained within this document are based on County records, staff field site visits and the Biological Technical Report prepared by Karl Osmundson of HELIX Environmental Planning, dated August 26, 2015. The information contained within these Findings is correct to the best of staff's knowledge at the time the findings were completed. Any subsequent environmental review completed due to changes in the proposed project or changes in circumstance shall need to have new findings completed based on the environmental conditions at that time.

The project has been found to conform to the County's Multiple Species Conservation Program (MSCP) Subarea Plan, the Biological Mitigation Ordinance (BMO) and the Implementation Agreement between the County of San Diego, the CA Department of Fish and Wildlife and the US Fish and Wildlife Service. Third Party Beneficiary Status and the associated take authorization for incidental impacts to sensitive species (pursuant to the County's Section 10 Permit under the Endangered Species Act) shall be conveyed only after the project has been approved by the County, these MSCP Findings are adopted by the hearing body and all MSCP-related conditions placed on the project have been satisfied.

## II. Biological Resource Core Area Determination

The impact area and the mitigation site shall be evaluated to determine if either or both sites qualify as a Biological Resource Core Area (BRCA) pursuant to the BMO, Section 86.506(a)(1).

**A. Report the factual determination as to whether the proposed Impact Area qualifies as a BRCA. The Impact Area shall refer only to that area within**

**which project-related disturbance is proposed, including any on and/or off-site impacts.**

The Impact Area does not qualify as a BRCA since it does not meet any of the following BRCA criteria:

**i. The land is shown as Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map.**

The site does not occur within PAMA and, therefore, does not meet this criterion.

**ii. The land is located within an area of habitat that contains biological resources that support or contribute to the long-term survival of sensitive species and is adjacent or contiguous to preserved habitat that is within the Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map.**

The site does contain native habitats that support a few non-listed sensitive species. Rare plant surveys identified only three sensitive plants on the site, including Engelmann oak, San Diego sunflower, and spiny rush, all of which have populations that are relatively stable and widespread in San Diego County. In addition, only four non-listed sensitive animals were observed or otherwise detected during surveys, including Cooper's hawk, turkey vulture, western bluebird, and San Diego black-tailed jackrabbit. These species, although sensitive, are relatively widespread within San Diego County. Protocol-level surveys conducted in 2014 and 2015 for Quino checkerspot butterfly, Hermes copper butterfly, coastal California gnatcatcher, and burrowing owl were negative and these species are presumed absent from the site. Last, the site is not adjacent or contiguous with PAMA. Therefore, the site does not meet this criterion.

**iii. The land is part of a regional linkage/corridor. A regional linkage/corridor is either:**

- a. Land that contains topography that serves to allow for the movement of all sizes of wildlife, including large animals on a regional scale; and contains adequate vegetation cover providing visual continuity so as to encourage the use of the corridor by wildlife; or**
- b. Land that has been identified as the primary linkage/corridor between the northern and southern regional populations of the California gnatcatcher in the population viability analysis for the California gnatcatcher, MSCP Resource Document Volume II, Appendix A-7 (Attachment I of the BMO.)**

The site does not contain and does not contribute to any functioning wildlife corridor or linkage. The site is not identified as a primary linkage/corridor between northern and southern regional populations of gnatcatcher. The site is not identified as a local or regional corridor or linkage in the MSCP.

The site is relatively flat and does not support topographic features typically associated with corridor/linkage areas, such as major ridgelines, steep gullied land, valley floor, or continuous riparian corridor. Vegetative cover on the site is predominantly open grassland and scrub, which provide limited cover and resources. The drainage features on the site support ephemeral flows and offer limited cover and resources.

Land to the immediate north, south, east, and west is constrained by existing development and agricultural uses. Figure 13 of the BTR depicts the expected wildlife movement patterns in the region. Wildlife movement is expected to occur between undeveloped blocks of habitat located further to the north within the expansive open space surrounding McGinty Mountain; to the south in the expansive open space surrounding Jamul Mountains and Jamul Creek; to the east near Jamul Butte; and to the west out near the Sweetwater River and the San Diego National Wildlife Refuge.

The site is entirely enclosed by perimeter chain-link fence which serves as a barrier to movement to and from the site for small and large mammals. A clear north-south trending corridor/linkage does not exist over the site. Rural residential and roadway developments abut the site and continue to the general north and south. Access onto the site from the north and south is blocked by existing development barriers and incompatible land uses that preclude most wildlife from using the areas. Similarly, a clear, east-west corridor/linkage through the site does not exist. Land to the east is constrained by existing rural residential development. Large mammals, in particular, would be challenged to move onto the site from the east. They would have to navigate through a network of non-contiguous, linear patches of undeveloped land situated between existing developments. As depicted on Figure 13 of the BTR, the more likely route from the east of the site would be south, around the site, moving west from the Jamul Butte area, across State Route 94 and the Jamul Mountains area, toward San Miguel Mountain and the San Diego Wildlife Refuge. Similarly, large mammals would be challenged to move onto the site from the west. In addition to existing rural residential developments, several major roads occur to the immediate west of the site. These roads were confirmed by HELIX site visits to lack suitable wildlife undercrossings to accommodate unobstructed movement and would, therefore, impede wildlife movement in the local area. Therefore, the site does not meet this criterion.

- iv. The land is shown on the Habitat Evaluation Map (Attachment J to the BMO) as very high or high and links significant blocks of habitat, except that land which is isolated or links small, isolated patches of habitat and land that has been affected by existing development to create adverse edge effects shall not qualify as BRCA.**

A portion of the site is identified as Very High habitat value; however, the area does not link significant blocks of habitat. As discussed above, the site does not

contain and does not contribute to any functioning wildlife corridor or linkage. Land in all directions is constrained by existing development and agricultural uses. A clear corridor/linkage through the site and area identified as Very High quality habitat does not exist. Therefore, the site does not meet this criterion.

**v. The land consists of or is within a block of habitat greater than 500 acres in area of diverse and undisturbed habitat that contributes to the conservation of sensitive species.**

The site does not consist of and is not located within a block of habitat greater than 500 acres. The existing habitat is disturbed and based on survey findings to date does not support listed species. Therefore, the site does not meet this criterion.

**vi. The land contains a high number of sensitive species and is adjacent or contiguous to surrounding undisturbed habitats, or contains soil derived from the following geologic formations which are known to support sensitive species:**

- a. Gabbroic rock;**
- b. Metavolcanic rock;**
- c. Clay;**
- d. Coastal sandstone**

The site does not contain a high number of sensitive species and is not adjacent or contiguous to undisturbed habitats. The site does not support the soils listed above. Therefore, the site does not meet this criterion.

**B. Report the factual determination as to whether the Mitigation Site qualifies as a BRCA.**

Mitigation must occur within an approved mitigation bank or BRCA in the South County MSCP according to the Tentative Map Conditions of Approval, and thus the mitigation site(s) will qualify as a BRCA.

**III. Biological Mitigation Ordinance Findings**

**A. Project Design Criteria (Section 86.505(a))**

The following findings in support of Project Design Criteria, including Attachments G and H (if applicable), must be completed for all projects that propose impacts to Critical Populations of Sensitive Plant Species (Attachment C), Significant Populations of Narrow Endemic Animal Species (Attachment D), Narrow Endemic Plant Species (Attachment E) or Sensitive Plants (San Diego County Rare Plant List) or proposes impacts within a Biological Resource Core Area.

The project would not impact Critical Populations of Sensitive Plant Species, Significant Populations of Narrow Endemic Animal Species, Narrow Endemic Plant

Species, County List A or B Sensitive Plants, or a Biological Resource Core Area; thus the Project Design Criteria do not apply.

#### **B. Preserve Design Criteria (Attachment G)**

In order to ensure the overall goals for the conservation of critical core and linkage areas are met, the findings contained within Attachment G shall be required for all projects located within Pre-Approved Mitigation Areas or areas designated as Preserved as identified on the Subarea Plan Map.

The project site is not designated as PAMA or Preserved; thus the Preserve Design Criteria from Attachment G do not apply.

#### **C. Design Criteria for Linkages and Corridors (Attachment H)**

For project sites located within a regional linkage and/or that support one or more potential local corridors, the following findings shall be required to protect the biological value of these resources:

The project site is not located within a regional linkage, nor does it support local wildlife corridors; thus the Design Criteria for Linkages and Corridors from Attachment H do not apply.

### **IV. Subarea Plan Findings**

Conformance with the objectives of the County Subarea Plan is demonstrated by the following findings:

#### **1. The project will not conflict with the no-net-loss-of-wetlands standard in satisfying State and Federal wetland goals and policies.**

The project will not conflict with the no-net-loss-of-wetlands standard because wetland impacts will be mitigated with at least 1:1 creation. Impacts to 0.14 acre of southern coast live oak riparian forest qualifying as RPO wetlands and CDFW jurisdictional will be mitigated with 0.14 acre SCLORF or wetland creation and 0.28 acres of SCLORF or wetland restoration/enhancement. Impacts to 0.16 acre (3,702 linear feet) of non-wetland Waters of the U.S. will be mitigated at no less than a 1:1 ratio, with final mitigation requirements to be determined by the Army Corps of Engineers and RWQCB during the 404/401 permit process. The 3,702 linear feet of non-wetland WUS also qualify as CDFW jurisdictional streambed with an impact area of 0.24 acre, to be mitigated at no less than a 1:1 ratio, with final mitigation requirements to be determined by CDFW during the Streambed Alteration permit process.

#### **2. The project includes measures to maximize the habitat structural diversity of conserved habitat areas including conservation of unique habitats and habitat features.**

Although the on-site biological open space will not receive mitigation credit, the project includes 6.62 acres of biological open space on Lot 97 including Engelmann oak woodland, coastal sage scrub, non-native grassland, southern willow scrub, and southern coast live oak riparian forest, and 42 of the 52 Engelmann oak trees on the project site. The preserved habitat includes 0.16 acre of RPO wetland: 0.14 acre of SLORF and 0.02 acre of southern willow scrub. In addition to this on-site open space counted as impact neutral, all of the project's impacts will be mitigated off-site within an approved mitigation bank or BRCA. This will maximize the habitat structural diversity of conserved habitat areas, including conservation of unique habitats and habitat features, because habitat located within a BRCA will be higher quality, with better connectivity and subject to fewer edge effects than any possible on-site mitigation.

- 3. The project provides for conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological values by the MSCP habitat evaluation model.**

None of the on-site coastal sage scrub was ranked as having high or very high habitat value. The only small portion of the site ranked as having very high habitat value is the RPO wetland area adjacent to Jefferson Road, which will be preserved in open space aside from unavoidable impacts related to the widening of Jefferson Road.

- 4. The project provides for the creation of significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats.**

The project will provide for the creation of significant blocks of habitat by preserving 120.87 acres of habitat off-site within an approved mitigation bank or BRCA. Approved mitigation banks and PAMA/BRCA areas are planned to conserve large, connected blocks of habitat, thus maximizing the ratio of surface area to perimeter of conserved habitats. Off-site mitigation is preferable to on-site preservation since the project site is surrounded by residential development, is not designated as Preserve or PAMA, and does not qualify as a BRCA.

- 5. The project provides for the development of the least sensitive habitat areas.**

The project site as a whole is considered a less sensitive habitat area suitable for development because it is surrounded by residential development, does not support wildlife movement, is not designated as Preserve or PAMA, and does not qualify as a BRCA. Therefore, the majority of the project site would be impacted in exchange for off-site mitigation in areas targeted for preservation by regional planning efforts.

- 6. The project provides for the conservation of key regional populations of covered species, and representations of sensitive habitats and their geographic sub-associations in biologically functioning units.**

The project site does not support key regional populations of covered species. The site does support sensitive habitats; however, the site's biological function is impaired because it is surrounded by residential development, fencing and roads that block larger wildlife species from using the site. Protocol surveys for Quino checkerspot butterfly, Hermes copper butterfly, burrowing owl, and California gnatcatcher were all negative. Therefore, the proposed off-site mitigation will better provide for the conservation of covered species and sensitive habitats in biologically functioning units than the project site.

- 7. Conserves large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as Mule deer, Golden eagle, and predators as appropriate. Special emphasis will be placed on conserving adequate foraging habitat near Golden eagle nest sites.**

The project site does not include large interconnecting blocks of habitat that can be used by mule deer or predators. The site could support golden eagle foraging; however, it is not a preferred foraging site since it is located more than 10 miles from the nearest golden eagle nest. The project will conserve large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species by mitigating off-site in an approved mitigation bank or BRCA.

- 8. All projects within the San Diego County Subarea Plan shall conserve identified critical populations and narrow endemics to the levels specified in the Subarea Plan. These levels are generally no impact to the critical populations and no more than 20 percent loss of narrow endemics and specified rare and endangered plants.**

The project site does not support identified critical populations, narrow endemics, listed species, or County list A or B plants; therefore, on-site avoidance is not required. Although avoidance is not required, the project will preserve over 80% of Engelmann oak trees (42 of 52) within the biological open space easement on lot 97. The other 10 Engelmann oak trees, all 215 individuals of San Diego sunflower and one individual southwestern spiny rush would be impacted, but the project would not threaten these species' regional survival, and thus impacts are less than significant.

- 9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.**

The project will not jeopardize the possible or probable assembly of a preserve system within the Subarea Plan because the project site is not designated as Preserve or PAMA, is not located within a wildlife corridor or linkage, does not support listed species, and does not qualify as a BRCA, as further described in section II.A above. The project will contribute to preserve assembly by preserving 120.87 acres of habitat off-site within an approved mitigation bank or BRCA with superior habitat value and connectivity compared to the project site.

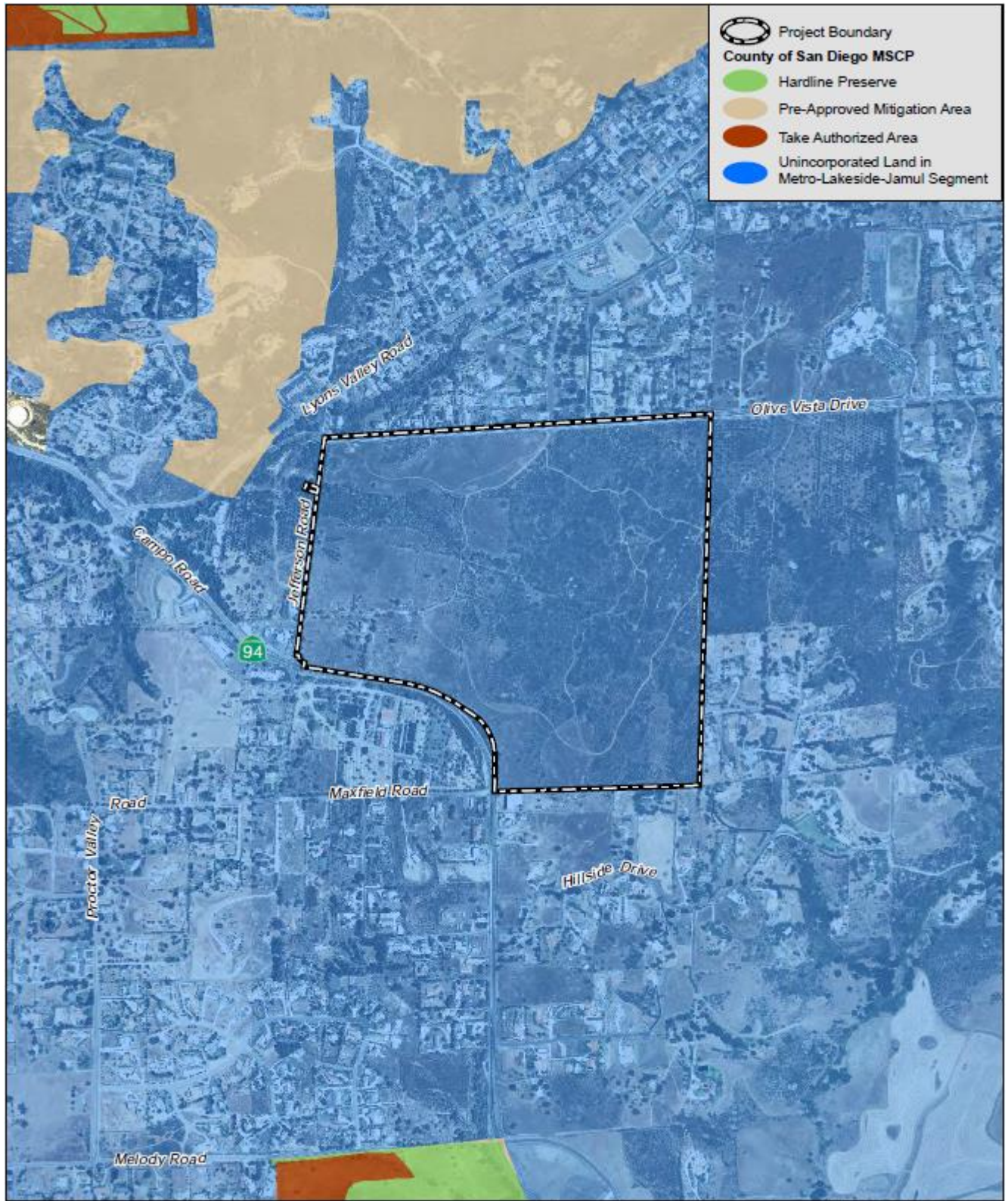
**10. All projects that propose to count on-site preservation toward their mitigation responsibility must include provisions to reduce edge effects.**

The project does not propose to count on-site preservation toward its mitigation responsibility; however, 6.62 acres of habitat will be preserved in a biological open space counted as impact neutral for CEQA purposes. Edge effects will be minimized by surrounding the biological open space with open space fencing, signage, and a 100-foot limited building zone to protect the open space from fire clearing.

**11. Every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.**

The project will avoid impacts to BRCAs, state or federally listed species, narrow endemics, or County list A or B plant species because none of those resources exist on the project site. The project site is not located within a wildlife linkage and does not support wildlife corridors, as explained in section II.A.iii above. All impacts will be mitigated off-site consistent with the BMO, and thus the project is consistent with the MSCP, BMO, and Implementing Agreement.

Beth Ehsan, Planning & Development Services  
November 3, 2015



County of San Diego MSCP Map